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10/530,594	05/19/2005	Daniel Lecomte	27592-01111-US	7637
30678 7590 04/09/2009 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006				
EXAMINER				
POPHAM, JEFFREY D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,594

Applicant(s)

LECOMTE ET AL.

Examiner

JEFFREY D. POPHAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-69 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 43-69 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 20081229
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Remarks

Claims 43-69 are pending.

Response to Arguments

1. Applicant's arguments filed 12/29/2008 have been fully considered but they are not persuasive.

Applicant argues that Kalra does not teach that "the modified stream is distorted with respect to the original audio stream." It is difficult to discern what Applicant means by stating that the stream is distorted, as "distorted" is only mentioned once within the application as originally filed. A definition from Wikipedia, however, is provided below. It should be clear from reading Kalra that the patent is directed to breaking down an original stream into a base stream and additive streams, such that the original stream (standard digital multimedia data 12 of figure 1) is the full version of the stream and the base and additive streams each only comprise part of the data of the original stream. It is true that at least some embodiments of Kalra are directed to allowing for "distortion free reproduction of images and sounds at different resolutions", however, one must first define "distorted" or "distortion" before further analysis may continue.

Wikipedia defines distortion (<http://en.wikipedia.org/wiki/Distort>) as "A **distortion** is the alteration of the original shape (or other characteristic) of an object, image, sound, waveform or other form of information or representation."

Taking this definition as being a broad, reasonable definition for distortion with respect to the claims, one will see that Kalra describes that the modified

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stream is distorted. Actually, since alter and modify are synonyms, and a distortion is defined in our definition above as being "the alteration of the original shape (or other characteristic) of an object, image, sound,..." one can see that providing a modified stream is the same as providing a distorted stream.

Kalra, column 2, lines 44-49, for example, states that "If desired, however, the profile can be further adapted to increase the resolution of certain characteristics, such as sound, at the expense of other characteristics, such as video." This citation clearly and explicitly shows increasing the resolution of sound (such that the sound is less distorted, or less altered), and decreasing the resolution of video (such that the video is more distorted, or less altered).

One will further note that the claims call for the modified stream being distorted, not the data that is reproduced at a device. The data that is reproduced at a device is clearly described as including the complementary information in the claims. Claim 43, for example, states that "the complementary information provides information to permit a decoder to reconstitute the original audio stream from the modified stream". One can see that the claims themselves are directed towards providing this complementary information on top of the distorted (modified) stream in order to allow for reproduction. Therefore, one can see that Kalra works in the same manner as the claims. Kalra splits the original stream into a base stream and adaptive streams, such that none of the streams contain the complete information from the original stream. One can clearly see that all of these streams are "distorted", however, if all were to be recombined, the combined stream would not be distorted.

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Furthermore, Applicant argues that "the idea of Kalra et al. is *not* to distort the stream, but rather to decrease its resolution, in comparison to an original stream." One will note that decreasing resolution of a stream is distorting the stream. Any decrease in resolution clearly distorts the stream by making an alteration to the original stream. It is noted that

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 43-46, 49, 53, 55-57, 61, 63-66, and 69 are rejected under 35

U.S.C. 102(b) as being anticipated by Kalra (U.S. Patent 5,953,506).

Regarding Claim 43,

Kalra discloses a method of transmitting audio information, the method comprising:

Modifying an original audio stream into a modified stream and complementary information, wherein a format of the modified stream corresponds to a format of the original audio stream, wherein the modified stream is distorted with respect to the original audio stream and wherein the complementary information provides information to permit a decoder to reconstitute the original audio

stream from the modified stream (Abstract; Column 1, line 66 to Column 2, line 49; and Column 3, line 66 to Column 4, line 32);

Transmitting the modified stream to target equipment (Column 4, lines 14-46); and

Transmitting at least a subset of the complementary information to the target equipment (Column 4, lines 14-46).

Regarding Claim 56,

Claim 56 is a system claim that corresponds to method claim 43 and is rejected for the same reasons.

Regarding Claim 44,

Kalra discloses that transmitting at least a subset of the complementary information to the target equipment comprises accessing a data profile of the target equipment; and determining, based on the data profile, the subset of the complementary information to be transmitted to the target equipment (Abstract; Column 1, line 66 to Column 2, line 49; and Column 3, line 66 to Column 4, line 59).

Regarding Claim 57,

Claim 57 is a system claim that corresponds to method claim 44 and is rejected for the same reasons.

Regarding Claim 45,

Kalra discloses that the data profile comprises at least one component relating to the target equipment and selected from the

group consisting of payment data, preferences, environment, habits, and characteristics (Column 4, lines 47-59).

Regarding Claim 46,

Kalra discloses that at least a portion of the data profile resides at the target equipment (Column 16, lines 18-28).

Regarding Claim 49,

Kalra discloses that transmitting the modified stream and transmitting at least a subset of the complementary information utilize a common transmission medium (Column 4, lines 14-59; and Column 5, lines 25-29).

Regarding Claim 53,

Kalra discloses reconstituting, at the target equipment, an audio stream using the modified stream and at least a subset of the complementary information (Column 4, lines 14-46).

Regarding Claim 55,

Kalra discloses that transmitting at least a subset of the complementary information comprises:

Initially transmitting all of the complementary information to the target equipment (Figures 15B2A-15B2D, 8/8 column; Column 16, line 49 to Column 17, line 60); and

Decreasing, over time, the amount of complementary information being transmitted to the target equipment (Column 25, lines 7-22).

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Regarding Claim 61,

Claim 61 is a system claim that corresponds to method claim 55 and is rejected for the same reasons.

Regarding Claim 63,

Kalra discloses that the audio information server further comprises at least one output buffer memory coupled to receive at least the modified stream from the analysis system (Figures 13-14; and Column 4, lines 14-59).

Regarding Claim 64,

Kalra discloses an apparatus for receiving transmitted audio information, comprising:

A synthesis system configured to receive a modified stream and at least a subset of a set of complementary information, wherein the modified stream and the complementary information are derived from an original audio stream, and to synthesize a reconstituted audio stream, wherein a format of the modified stream corresponds to a format of the original audio stream, wherein the modified stream is distorted with respect to the original audio stream, and wherein the complementary information provides information to permit a decoder to reconstitute the original audio stream from the modified stream (Abstract; Figures 12-14; Column 1, line 66 to Column 2, line 49; Column 3, line 66 to Column 4, line

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59; Column 14, line 61 to Column 15, line 32; and Column 15, line 66 to Column 17, line 17).

Regarding Claim 65,

Kalra discloses a playback device coupled to the synthesis system to receive the reconstituted audio stream and to play corresponding audio on a listening device (Column 1, line 66 to Column 2, line 49; Column 3, line 66 to Column 4, line 59; and Column 15, line 51 to Column 16, line 17).

Regarding Claim 66,

Kalra discloses at least one buffer memory to receive and store the modified stream or the received at least a subset of the set of complementary information, wherein the at least one buffer memory is coupled to the synthesis system (Figure 24; and Column 24, line 50 to Column 25, line 6).

Regarding Claim 69,

Kalra discloses that the complementary information includes at least one function to be used by the synthesis system to synthesize the reconstituted audio stream from the modified stream and the at least a subset of the complementary information (Abstract; Column 1, line 66 to Column 2, line 49; and Column 3, line 66 to Column 4, line 59).

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 47, 48, 50-52, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalra in view of Saunders (U.S. Patent 7,290,057).

Regarding Claim 47,

Kalra does not explicitly disclose that the data profile includes an indication of rights of a user to access content of the original audio stream.

Saunders, however, discloses that the data profile includes an indication of rights of a user to access content of the original audio stream (Column 12, lines 36-61). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the media delivery system of Saunders into the scalable media delivery system of Kalra in order to allow the system to distribute different portions of a stream via different communication means, provide additional scalability factors, such as language, and/or only allow usage of content to authorized entities.

Regarding Claim 48,

Kalra does not explicitly disclose that transmitting the modified stream comprises storing the modified stream on a physical storage medium.

Saunders, however, discloses that transmitting the modified stream comprises storing the modified stream on a physical storage medium (Column 15, lines 20-31). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the media delivery system of Saunders into the scalable media delivery system of Kalra in order to allow the system to distribute different portions of a stream via different communication means, provide additional scalability factors, such as language, and/or only allow usage of content to authorized entities.

Regarding Claim 58,

Claim 58 is a system claim that corresponds to method claim 48 and is rejected for the same reasons.

Regarding Claim 50,

Kalra does not explicitly disclose that transmitting the modified stream and transmitting at least a subset of the complementary information utilize separate transmission media.

Saunders, however, discloses that transmitting the modified stream and transmitting at least a subset of the complementary information utilize separate transmission media (Column 4, lines

42-62; Column 6, lines 28-55; and Column 13, lines 20-50). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the media delivery system of Saunders into the scalable media delivery system of Kalra in order to allow the system to distribute different portions of a stream via different communication means, provide additional scalability factors, such as language, and/or only allow usage of content to authorized entities.

Regarding Claim 51,

Kalra does not explicitly disclose that transmitting at least a subset of the complementary information utilizes a transmission medium different from that used for transmitting the modified stream.

Saunders, however, discloses that transmitting at least a subset of the complementary information utilizes a transmission medium different from that used for transmitting the modified stream (Column 4, lines 42-62; Column 6, lines 28-55; and Column 13, lines 20-50). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the media delivery system of Saunders into the scalable media delivery system of Kalra in order to allow the system to distribute different portions of a stream via different communication means, provide

additional scalability factors, such as language, and/or only allow usage of content to authorized entities.

Regarding Claim 52,

Kalra as modified by Saunders discloses the method of claim 51, in addition, Saunders discloses that the transmission medium utilized for transmitting at least a subset of the complementary information is selected from the group consisting of an analog telephone line, a digital telephone line, a digital subscriber line, a local radio loop, a digital audio broadcasting channel, a commutated telephone network, and a wireless digital telecommunication network (Column 19, lines 12-40).

Regarding Claim 59,

Claim 59 is a system claim that is broader than method claim 52 and is rejected for the same reasons.

4. Claims 54 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalra in view of Blacketter (U.S. Patent 6,938,270).

Regarding Claim 54,

Kalra does not explicitly disclose that the complementary information includes at least one function to be used by the target equipment to reconstitute an audio stream from the modified stream and the at least a subset of the complementary information.

Blackketter, however, discloses that the complementary information includes at least one function to be used by the target equipment to reconstitute an audio stream from the modified stream and the at least a subset of the complementary information (Abstract). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the script trigger system of Blackketter into the scalable media delivery system of Kalra in order to allow for interaction between an information resource and a user, provide a user with relevant information concerning the user's interests, and/or allow the system to keep such information up to date without the need to connect to the Internet or wait for the selected channel to deliver the latest information.

Regarding Claim 60,

Claim 60 is a system claim that corresponds to method claim 54 and is rejected for the same reasons.

5. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalra in view of DeLeon (U.S. Patent Application Publication 2002/0064285).

Kalra does not explicitly disclose an audio coder, coupled to the audio information server, and configured to accept an analog audio stream and to convert the analog audio stream to a digital audio stream to be used by the audio information server as the original audio stream.

DeLeon, however, discloses an audio coder, coupled to the audio information server, and configured to accept an analog audio stream and to convert the analog audio stream to a digital audio stream to be used by the audio information server as the original audio stream (Abstract; and Paragraphs 23 and 32). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the analog/digital conversion system of DeLeon into the scalable media delivery system of Kalra in order to allow the system to transmit media in a digital and compressed format, even if the input media is analog, thereby providing high quality audio while conserving bandwidth.

6. Claims 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalra in view of Yoon (U.S. Patent Application Publication 2003/0061239).

Regarding Claim 67,

Kalra does not explicitly disclose means for coupling a smart card to the synthesis system.

Yoon, however, discloses means for coupling a smart card to the synthesis system (Paragraphs 32-36). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the user profile system of Yoon into the scalable media delivery system of Kalra in order to allow the system to securely store the profile on a smart card of the user,

provide additional information within the profile with respect to preferences, history of usage, and authorization, and/or to ensure that the user is authorized to access content before allowing access to such content.

Regarding Claim 68,

Kalra as modified by Yoon discloses the apparatus of claim 67, in addition, Kalra discloses that the data profile to be used to determine a quantity of complementary information to be received by the apparatus (Abstract; and Column 3, line 66 to Column 4, line 59); and Yoon discloses that smart card is configured with a data profile (Paragraphs 32-36).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY D. POPHAM whose telephone number is (571)272-7215. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571)272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey D Popham
Examiner
Art Unit 2437

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